

## **REMARKS**

Reconsideration of the application is respectfully requested.

The listing of claims presented herein cancels claim 30, and amends claims 21 and 31-33. With entry of this amendment, claims 21-29 and 31-38 are pending in this application.

### **Support for Claim Amendments in Specification**

Support for the amendment to claims 21 and 33 to recite "specific for" is found, for example, at page 48, line 11 to page 49, line 16.

Support for the amendment of claims 31 and 32 to recite "an unglycosylated protein" is found, for example, at page 21, lines 7-22.

### **Objection to Claim 30**

The Examiner objected to claim 30 under 37 C.F.R. § 1.75(c), characterizing the claim as being of improper dependent form for failing to further limit the subject matter of a previous claim. (Office Action at ¶ 3.) Without acquiescing to the Examiner's stated basis for this rejection, and in order to further prosecution of this application by obviating the basis for the rejection, applicants have cancelled claim 30 without prejudice or disclaimer to the subject matter recited therein. Applicants do agree that the subject matter of claim 30 is encompassed by claim 29.

FINNEGAN  
HENDERSON  
FARABOW  
GARRETT &  
DUNNER LLP

1300 I Street, NW  
Washington, DC 20005  
202.408.4000  
Fax 202.408.4400  
www.finnegan.com

Rejection Under 35 U.S.C. § 112, second paragraph

The Examiner rejected claims 31 and 32 for alleged indefiniteness, for failing to particularly point out and distinctly claim the subject matter which applicants regard as their invention. (Office Action at ¶ 4.) Applicants have amended claims 31 and 32 to recite "an unglycosylated protein." Support for this amendment is found at page 21, lines 7-22. As this passage makes clear, the "unglycosylated protein of HIV-2 having an apparent molecular weight of about 200 kilodaltons (Kd) by SDS-PAGE," recited in claim 31, and the "unglycosylated protein of HIV-2 having an apparent molecular weight of about 90 kilodaltons (Kd) to about 80 Kd by SDS-PAGE," recited in claim 32, include proteins obtained from HIV-2 infected cells grown in the presence of a glycosylation inhibitor, such as tunicamycin. This process for producing a protein without some or all of its native glycosylation, i.e., "unglycosylated", was known in the art as of applicants' effective filing date and, accordingly, one of skill in the art would have, as of applicants' effective filing date, understood the metes and bounds of applicants' claims. Accordingly, applicants respectively request that the Examiner withdraw this rejection.

Rejection of Claims 21-24 and 27-32 Under 35 U.S.C. § 102(e)

The Examiner rejected claims 21-24 and 27-32 as allegedly anticipated by Montagnier (1997), as evidenced by Walsh (1985), Earl (1990), and McGuire (1992). (Office action at ¶ 6.) The Examiner acknowledges that Montagnier does not literally disclose antibodies that recognize HIV-2 gp300, p200, or p90/80. However, the Examiner contends that antibodies against HIV-2 gp130-140, as disclosed in Montagnier, would inherently also recognize HIV-2 gp300.

FINNEGAN  
HENDERSON  
FARABOW  
GARRETT &  
DUNNER LLP

1300 I Street, NW  
Washington, DC 20005  
202.408.4000  
Fax 202.408.4400  
www.finnegan.com

Applicants note that dependent claims 23, 24, 31, and 32 do not encompass antibodies to HIV-2 gp300. The claims do encompass antibodies specific for p200 (claims 23 and 31) or p90/80 (claims 24 and 32). The Examiner has pointed to no disclosure in Montagnier or any other reference, which discloses antibodies to p200 or p90/80. Thus, these claims are free of the cited art. Accordingly, applicants respectfully request that the rejection of these claims as anticipated by Montagnier be withdrawn.

Applicants have amended claim 21 to recite "An isolated antibody ~~that binds with~~ specific for an HIV-2 protein selected from gp300, p200, and p90/80." As amended, claim 21 and the rejected dependent claims exclude antibodies against HIV-2 gp130-140. Clearly, Montagnier does not disclose such antibodies, literally or inherently, and can not anticipate these claims for this reason. Accordingly, applicants respectfully request that the Examiner withdraw the rejection of claims 21, 22, and 27-30 as anticipated by Montagnier as well.

#### Rejection of Claims 25 and 26 Under 35 U.S.C. § 103(a)

The Examiner rejected claims 25 and 26 under 35 U.S.C. § 103(a) as obvious over Montagnier in view of Galfre. (Office Action at ¶ 10.) The Examiner acknowledged that Montagnier does not disclose labeled antibodies, as recited by claims 25 and 26, but contends that Galfre provides this missing disclosure. However, as applicants have shown above, Montagnier does not disclose an isolated antibody specific for an HIV-2 protein selected from gp300, p200, and p90/80. Galfre does not remedy this defect and, accordingly, the combination of Montagnier in view of Galfre does not render applicants' claims obvious. Accordingly, applicants respectfully request that the

FINNEGAN  
HENDERSON  
FARABOW  
GARRETT &  
DUNNER LLP

1300 I Street, NW  
Washington, DC 20005  
202.408.4000  
Fax 202.408.4400  
www.finnegan.com

rejection of claims 25 and 26 as obvious over Montagnier in view of Galfre be withdrawn.

Rejection of Claims 33, 36, and 37 Under 35 U.S.C. § 102(e)

The Examiner rejected claims 33, 36, and 37 as allegedly anticipated by Kanki (1985), as evidenced by Walsh (1985), Earl (1990), and McGuire (1992). (Office action at ¶ 7.) The Examiner acknowledges that Kanki does not literally disclose antibodies that recognize gp300<sub>SIV</sub>. However, the Examiner contends that antibodies against SIV envelope glycoprotein gp160/gp120, as disclosed in Kanki, would inherently also recognize p300<sub>SIV</sub>.

Applicants have amended claim 33 to recite "An isolated antibody ~~that binds with~~ specific for p300<sub>SIV</sub>." As amended, claim 33 and the rejected dependent claims exclude antibodies against gp160/gp120. Clearly, Kanki does not disclose such antibodies, literally or inherently, and can not anticipate these claims for this reason. Accordingly, applicants respectfully request that the Examiner withdraw the rejection of claims 33, 36, and 37 as anticipated by Kanki.

Rejection of Claims 34, 35, and 38 Under 35 U.S.C. § 103(a)

The Examiner rejected claims 34, 35, and 38 under 35 U.S.C. § 103(a) as obvious over Kanki in view of Galfre. (Office Action at ¶ 11.) The Examiner acknowledged that Kanki does not disclose monoclonal antibodies, as recited by claim 38, or labeled antibodies, as recited by claims 34 and 35, but contends that Galfre provides this missing disclosure. However, as applicants have shown above, Kanki

does not disclose an isolated antibody specific for p300<sub>SIV</sub>. Galfre does not remedy this defect and, accordingly, the combination of Kanki in view of Galfre does not render applicants' claims obvious. Accordingly, applicants respectfully request that the rejection of claims 34, 35, and 38 as obvious over Montagnier in view of Galfre be withdrawn.

Conclusion

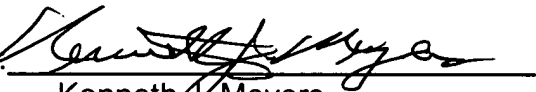
In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims 21-29 and 31-38.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: January 15, 2004

By:   
Kenneth J. Meyers  
Reg. No. 25,146

FINNEGAN  
HENDERSON  
FARABOW  
GARRETT &  
DUNNER LLP

1300 I Street, NW  
Washington, DC 20005  
202.408.4000  
Fax 202.408.4400  
www.finnegan.com